

## REMARKS

In the June 13, 2003 Office Action, Restriction of pending Claims 14-20 was held final, and further restricted to an election of taxane species. Without conceding that Claims 1-13 were not patentable, Claims 1-13 have been withdrawn. Restricted and pending Claims 5 14-20 are rejected under 35 USC §112, second paragraph for alleged indefiniteness, and under judicially created doctrines for alleged double patenting.

## SECTION 112 REJECTION

Claims 14-20 have been amended and Claims 21-31 have been added, each claim written to obviate the rejections for alleged indefiniteness as cited against original Claims 14-10 20 and to be consistent with the election of taxane species in the final restriction.

The Claims now use known viral terminology and include taxane compositions favorable to resolving Herpesviridae infections, particularly HSV-1, HSV-2, CMV, and EBV. Though the Office Action has pointed out the difficulty that exists in developing effective in-vivo clinical compositions from in-vitro studies, this difficulty is not true in 15 every case. In FIGURE 1 of the specification, CMV, and EBV are shown to have in-vitro activity at levels approaching to that of HSV-1 and HSV-2. In light of “contacting an effective amount” of taxane compositions to reduce viral lesions and inflamed areas by the first and following repetitive rubbings, it is reasonable that an effective amount of rubbed-on taxane compositions would be found effective for treating CMV, and EBV affected areas.

## 20 DOUBLE PATENTING REJECTION

Claims 14-20 have been amended and Claims 21-31 have been added, each Claim written to obviate the rejections for alleged double patenting as cited against original Claims 14-20 in that the Claims now before the Office, currently amended claims 14-20 and new Claims 21-31 in the instant application are directed to a broader Herpesviridae group, namely 25 HSV-1, HSV-2, CMV, and EBV. In contrast, the Gallaher reference (U.S. patent 6,406,722



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701 Fifth Avenue, Suite 4800  
Seattle, Washington 98104  
206.381.3300 • F: 206.381.3301

B1) is directed to a narrower Herpersviridae group, namely HSV-1 and HSV-2. Furthermore, the currently amended and new Claims of the instant application now claim the treating of dermal tissue exhibiting prodromal symptoms.

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CONCLUSION

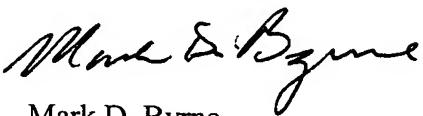
Applicant requests reconsideration and allowance of pending Claims 14-31.

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Respectfully submitted,

BLACK LOWE & GRAHAM<sup>PLLC</sup>

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Mark D. Byrne  
Registration No. 50,125  
Direct Dial: 206.957.2481

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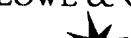
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BLACK LOWE & GRAHAM<sup>PLLC</sup>



701 Fifth Avenue, Suite 4800  
Seattle, Washington 98104  
206.381.3300 • F: 206.381.3301